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10 Attorneys for Defendant
11 UNITED NATIONAL INSURANCE COMPANY

12 SCOTTSDALE INSURANCE
13 COMPANY, an Ohio Corporation

14 Plaintiff,

15 v.

16 UNITED NATIONAL INSURANCE
17 COMPANY and DOES 1 through 15.

18 Defendants.

19 Action No.: C08-03981CW

20 ANSWER OF DEFENDANT UNITED
21 NATIONAL INSURANCE COMPANY.

22 DEMAND FOR JURY TRIAL.

23 ANSWER TO COMPLAINT

24 Defendant United National Insurance Company, in answer to the complaint filed by
25 plaintiff Scottsdale Insurance Company, admits, denies, and alleges as follows:

26 1. Responding to the allegations in paragraph 1 of the complaint, United
27 National lacks sufficient knowledge, information or belief to respond and on that basis
denies each, every, and all of the allegations contained in paragraph 1 of the complaint.

28 2. Responding to the allegations in paragraph 2 of the complaint, United
National admits and alleges that it is a Pennsylvania corporation and that it is authorized

1 to and sells insurance policies on a surplus-lines basis in the State of California. Except as
2 so admitted, United National lacks sufficient knowledge, information or belief to respond
3 and on that basis denies each, every, and all of the allegations contained in paragraph 2 of
4 the complaint.

5 3. Responding to the allegations in paragraph 3 of the complaint, United
6 National lacks sufficient knowledge, information or belief to respond and on that basis
7 denies each, every, and all of the allegations contained in paragraph 3 of the complaint.

8 4. Paragraph 4 of the complaint does not require a response.

9 5. Responding to the allegations in paragraph 5 of the complaint, United
10 National lacks sufficient knowledge, information or belief to respond and on that basis
11 denies each, every, and all of the allegations contained in paragraph 3 of the complaint.

12 6. Responding to the allegations in paragraph 6 of the complaint, United
13 National admits and alleges that a lawsuit styled *Williams v. Miller* was filed in Sonoma
14 County Superior Court, Action No. SCV239280 (the “*Williams* action”), the documents
15 and files of which speak for themselves. Except as so admitted and alleged, United
16 National lacks sufficient knowledge, information or belief to respond to and on that basis
17 denies each, every, and all of the allegations contained in paragraph 6 of the complaint..

18 7. Responding to the allegations contained in paragraph 7 of the complaint,
19 United National lacks sufficient knowledge, information or belief to respond and on that
20 basis denies each, every, and all of the allegations contained in paragraph 7 of the
21 complaint.

22 8. Responding to the allegations in paragraph 8 of the complaint, United
23 National alleges and admits that it issued to named insured Benshante Place, Hazel Home
24 & Thrush Wing Home, a policy of liability insurance effective from January 13, 2006, to
25 January 13, 2007, with policy number CGA045476 (the “United National policy”), and
26 that the United National policy sets forth various terms, conditions, exclusions, and dollar
27 limits of liability, all of which speak for themselves. Except as so admitted and alleged,
28 United National lacks sufficient knowledge, information or belief to respond to and on

1 that basis denies each, every, and all of the allegations contained in paragraph 8 of the
2 complaint.

3 9. Responding to the allegations in paragraph 9 of the complaint, United
4 National admits and alleges that attorney Joseph Fenech sent a letter dated February 12,
5 2008, to Diane Cruz of United National, that Ms. Cruz sent a letter dated April 19, 2008,
6 to Mr. Fenech, that Mr. Fenech sent a letter dated June 19, 2008, to Ms. Cruz, and that
7 attorney Hillary Agnost sent a letter dated July 8, 2008, to Mr. Fenech, all of which speak
8 for themselves. Except as so admitted and alleged, United National lacks sufficient
9 knowledge, information or belief to respond to and on that basis denies each, every, and
10 all of the allegations contained in paragraph 9 of the complaint.

11 10. Responding to the allegations in paragraph 10 of the complaint, United
12 National admits and alleges that it declined to defend Scottsdale's named insured, Scott
13 Lissberger, in connection with the *Williams* action. Except as so admitted and alleged,
14 United National lacks sufficient knowledge, information or belief to respond to and on
15 that basis denies each, every, and all of the allegations contained in paragraph 10 of the
16 complaint.

17 11. Responding to the allegations in paragraph 11 of the complaint, United
18 National admits and alleges that it declined to defend Scottsdale's named insured, Scott
19 Lissberger, in connection with the *Williams* action. Except as so admitted and alleged,
20 United National lacks sufficient knowledge, information or belief to respond to and on
21 that basis denies each, every, and all of the allegations contained in paragraph 11 of the
22 complaint.

23 12. Paragraph 12 of the complaint does not require a response.

24 13. Responding to the allegations in paragraph 13 of the complaint, United
25 National admits and alleges that Scottsdale makes the contentions set forth in paragraph
26 13, and United National admits and alleges that it contends it had and has no duty to
27 defend or indemnify Scottsdale's named insured, Scott Lissberger, in connection with the
28 *Williams* action. Except as so admitted and alleged, United National lacks sufficient

1 knowledge, information or belief to respond to and on that basis denies each, every, and
2 all of the allegations contained in paragraph 13 of the complaint.

3 14. Paragraph 14 of the complaint does not require a response.

4 15. Paragraph 15 of the complaint does not require a response.

5 16. Responding to the allegations in paragraph 16 of the complaint, United
6 National denies each, every, and all of the allegations contained in paragraph 16 of the
7 complaint.

8 17. Responding to the allegations in paragraph 17 of the complaint, United
9 National denies each, every, and all of the allegations contained in paragraph 17 of the
10 complaint.

11 18. Paragraph 18 of the complaint does not require a response.

12 19. Responding to the allegations in paragraph 19 of the complaint, United
13 National admits and alleges that it has not waived and is not estopped from asserting any
14 defense to Scottsdale's claims in this action, and that United National so contends in this
15 action. United National denies the allegation that it "failed to respond, or responded late,
16 to the tender of the underlying action." Except as admitted, alleged, or denied, United
17 National lacks sufficient knowledge, information or belief to respond to and on that basis
18 denies each, every, and all of the allegations contained in paragraph 19 of the complaint.

19 20. Paragraph 20 of the complaint does not require a response.

20

21 United National further alleges the following affirmative defenses:

22 1. As and for a first, separate defense, United National alleges that the
23 complaint and each claim therein do not state facts sufficient to constitute a claim against
24 United National.

25 2. As and for a second, separate defense, United National alleges that the
26 plaintiff lacks standing to bring this action.

27 3. As and for a third, separate defense, United National alleges that the
28 complaint and each cause of action in it are barred by the terms, provisions, conditions,

1 limitations, and exclusions of the alleged Scottsdale and United National policies. Said
2 terms, provisions, conditions, limitations, and exclusions do not constitute new matter
3 and, therefore, not affirmative defenses, and are pleaded only to clarify this point. United
4 National reserves the right to amend its answer to the Complaint to assert any additional
5 defenses arising from the terms of the alleged Scottsdale and United National insurance
6 policies, and/or applicable insurance policy terms, provisions, conditions, limitations, and
7 exclusions as may become apparent during the continuing course of discovery in this
8 action.

9
10 Wherefore United National prays for judgment as follows:

11 1. That the Court deny plaintiff's prayers for judicial declarations set forth in
12 the complaint;

13 2. That plaintiff take nothing by its complaint;

14 3. That United National be awarded its costs of suit incurred herein;

15 4. That United National be awarded its attorneys fees;

16 3. For such other and further relief as the Court deems just and proper.

17
18 Dated: August 27, 2008

19 Respectfully submitted,

20 NIELSEN, HALEY & ABBOTT LLP

21 By: 

22 Thomas H. Nienow
23 Attorneys for Defendant
24 UNITED NATIONAL INSURANCE COMPANY

DEMAND FOR JURY TRIAL

Defendant United National Insurance Company demands trial by jury in this action.

Respectfully submitted,

NIELSEN, HALEY & ABBOTT LLP

Dated: August 27, 2008

By:

Thomas H. Nienow

Attorneys for Defendant

UNITED NATIONAL INSTITUTE

UNITED NATIONAL INSURANCE COMPANY

Scottsdale Insurance Company v. United National Ins. Co.
United State District Court, Northern District Court No.: C08-03981 CW

PROOF OF SERVICE

I declare that:

I am a citizen of the United States, employed in the County of San Francisco. I am over the age of eighteen years, and not a party to the within cause. My business address is 44 Montgomery Street, Suite 750, San Francisco, California 94104. On the date set forth below I served the following document(s) described as:

ANSWER OF DEFENDANT UNITED NATIONAL INSURANCE COMPANY

[] (BY FACSIMILE) by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list, on this date.

[] (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at San Francisco, California.

[] (BY PERSONAL SERVICE) I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s).

[] (BY OVERNIGHT DELIVERY) I caused such envelope(s) to be delivered to an overnight delivery carrier with delivery fees provided for, addressed to the person(s) on whom it is to be served.

(BY ELECTRONIC SERVICE) by submitting an electronic version of the document(s) to be served on all parties listed on the service list on file with the court as of this date.

Attorney for Plaintiff, Scottsdale Insurance
Co., an Ohio Corp.

Joseph M. Fenech
Low, Ball & Lynch
505 Montgomery St.
San Francisco, CA 94104
Tel: (415) 891-6630

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on August 27, 2008, at San Francisco, California.

Fatima Puente
Fatima Puente